

(PCT Article 36 and Rule 70)

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/013235

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-11 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 1-8 _____ received by this Authority on 28.11.2005 with letter of 28.11.2005
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/1 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/013235

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1.	Statement		
	Novelty (N)	Claims <u>2, 3, 5, 8</u>	YES
		Claims <u>1, 4, 6, 7</u>	NO
	Inventive step (IS)	Claims _____	YES
		Claims <u>1-8</u>	NO
	Industrial applicability (IA)	Claims <u>1-8</u>	YES
		Claims _____	NO
2.	Citations and explanations (Rule 70.7)		
1.	This report makes reference to the following documents:		
D1:	US-A-5 316 533 (HOKER ET AL), 31 May 1994 (1994-05-31)		
D2:	US-B1-6 179 751 (CLEARS WELDON R), 30 January 2001 (2001-01-30)		
D3:	US-A-5 945 060 (WILLIAMS ET AL), 31 August 1999 (1999-08-31)		
2.	INDEPENDENT CLAIM 1		
	<p>The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 1 is not novel (PCT Article 33(2)).</p> <p>Document D1 discloses (the references in parentheses are to that document):</p> <p>an exercising band (see D1, figure 1) for strengthening muscles, ligaments and tendons of the locomotor system, and including at least one</p>		

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/013235

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p>thermoplastic elastomeric material (see D1, column 4, line 54: "Spandex "; the literature indicates that Spandex (TM) is a thermoplastic elastomeric material) and another material different from the thermoplastic elastomeric material (see D1, column 4, line 50), the materials forming different layers (see D1, figure 3).</p> <p>The subject matter of claim 1 is therefore not novel (PCT Article 33(2)).</p> <p>3. INDEPENDENT CLAIM 2</p> <p>The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 2 does not involve an inventive step (PCT Article 33(3)).</p> <p>Document D3 is considered to constitute the prior art closest to the subject matter of claim 2 and discloses (the references in parentheses are to that document):</p> <p>an exercising band (12) for strengthening the muscles, ligaments and tendons of the locomotor system, and including at least one thermoplastic elastomeric material (see D3, column 5; figures 4 and 5), depressions being formed in at least one side of the band in its longitudinal direction (see D3, column 7, lines 49-54).</p> <p>The subject matter of claim 2 therefore differs</p>

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p>from the known exercising band in that the depressions are shaped as grooves.</p> <p>However, it is generally known to a person skilled in the art that the "grooves" constitute a feature which is equivalent to the "dimples" (<i>dimples</i>: D3, column 7, line 25) or to the "textured surface" (<i>surface is textured</i>: D3, column 7, line 15) known from document D3, and can replace these features whenever necessary.</p> <p>The solution proposed in claim 2 of the present application therefore cannot be considered inventive (PCT Article 33(3)).</p> <p>The subject matter of claim 2 therefore does not involve an inventive step (PCT Article 33(3)).</p> <p>4. DEPENDENT CLAIMS 3-8</p> <p>Dependent claims 3-8 do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT novelty and inventive step requirements; see documents D1, D2 and D3, and the corresponding text passages indicated in the search report.</p>